

Practitioner's Docket No. LYON 1001 US

## CHAPTER II

## IN THE UNITED STATES ELECTED OFFICE (EO/US)

PCT/US2004/012363  
INTERNATIONAL APPLICATION NO.04/22/2004  
INTERNATIONAL FILING DATE04/23/2003  
PRIORITY DATE CLAIMED10/553,774  
U.S. APPLICATION NO.METHOD AND APPARATUS FOR SOUND TRANSDUCTION WITH MINIMAL INTERFERENCE  
FROM BACKGROUND NOISE AND MINIMAL LOCAL ACOUSTIC RADIATION

TITLE OF INVENTION

Richard H. Lyon, David L. Bowen and Gladys L. Unger  
APPLICANT(S)Mail Stop PCT  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450  
ATTENTION: EO/USCOMPLETION OF FILING REQUIREMENTS  
FOR INTERNATIONAL APPLICATION ENTERING U.S. NATIONAL STAGE IN  
U.S. ELECTED OFFICE (EO/US) UNDER 35 U.S.C. § 371

## CERTIFICATION UNDER 37 CFR § 1.10\*

(Express Mail label number is mandatory)  
(Express Mail certification is optional)

I hereby certify that this Completion of Filing Requirements and the documents indicated as being transmitted therewith are being deposited with the United States Postal Service on this date August 10, 2006, in an envelope as "Express Mail Post Office to Addressee" Mailing Label Number EV 239313124 US addressed to the: Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Steven J. Weissburg

(Type or print name of person mailing paper)

  
Signature of person mailing paper

**WARNING:** Certificate of mailing (first class) or facsimile transmission procedures of 37 C.F.R. § 1.8 cannot be used to obtain a date of mailing or transmission for this correspondence.

**\*WARNING** Each paper or fee filed by "Express Mail" must have the number of the mailing label placed thereon prior to mailing. 37 CFR § 1.10(b). "Since the filing of correspondence under § 1.10 without the Express Mail mailing label thereon is an oversight that can be avoided by the exercise of reasonable care, requests for waiver of this requirement will not be granted on petition." Notice of Oct. 24, 1996, 60 Fed. Reg. 56,439, at 56,442.

*(check and complete this item, if applicable)*

☒ This replies to the Notice of Missing Requirements under 35 U.S.C. § 371 and 37 C.F.R. § 1.495 (FORM PCT/DO/EO/905).

☒ A copy of FORM PCT/DO/EO/905 accompanies this response.

**WARNING:** *Where the items are being submitted to complete the entry of the international application into the national phase are subsequent to 30 months from the priority date the application is still considered to be in the international state and if mailing procedures are utilized to obtain a date the express mail procedure of 37 C.F.R. § 1.10 must be used (because international application papers are not covered by an ordinary certificate of mailing. 37 C.F.R. § 108(2)(xi).*

**NOTE:** *Documents and fees must be clearly identified as a submission to enter the national stage under 35 U.S.C. § 371. Otherwise, the submission will be considered as being made under 35 U.S.C. § 111. 37 C.F.R. § 1.495(g).*

## DECLARATION OR OATH

I.A. ☒ No declaration or oath was filed. Enclosed is the original declaration or oath for this application.

OR

☐ The declaration or oath which was filed was determined to be defective. A new original oath or declaration is attached.

**NOTE:** *For surcharge fee for filing declaration after filing date complete item IV(2).*

**NOTE:** *Acceptable minimums in the declaration in an ordinarily filed U.S. application for identification of the specification to which it applies are:*

*(A) application number (consisting of the series code and the serial number, e.g., 08/123,456);*

*(B) serial number and filing date;*

*(C) attorney docket number which was on the specification as filed;*

*(D) title which was on the specification as filed and reference to an attached specification which is both attached to the oath or declaration at the time of execution and submitted with the oath or declaration; or*

*(E) title which was on the specification as filed and accompanied by a cover letter accurately identifying the application for which it was intended by either the application number (consisting of the series code and the serial number, e.g., 08/123,456), or serial number and filing date. Absent any statement(s) to the contrary, it will be presumed that the application filed in the PTO is the application which the inventor(s) executed by signing the oath or declaration.*

*M.P.E.P. § 601.01(a), 7<sup>th</sup> ed. Notice of September 12, 1983 (1035 O.G. 3). See M.P.E.P. § 601.01(a), 7<sup>th</sup> ed.*

**NOTE:** *Another minimum found acceptable in the declaration is the filing date (i.e., date of express mail) and the express mail number, useful where the serial number is not yet known. But note the practice where the express mail deposit is a Saturday, Sunday or holiday within the District of Columbia. 37 C.F.R. § 1.10(c).*

**NOTE:** *See 37 C.F.R. § 1.41(a)*

☐ The original oath was objected to. A new original oath is attached.

*(complete (c) or (d), if applicable)*

Attached is a

- (c) ☐ Statement by a registered attorney that the application filed in the PTO is the application which the inventor executed by signing the declaration.
- (d) ☐ Statement that the "attached" specification is a copy of the specification and any amendments thereto which were filed in the PTO to obtain the filing date.

### **POWER OF ATTORNEY BY ASSIGNEE**

I. B. ☒ Enclosed is a Power of Attorney by Assignee of entire interest (revocation of prior powers) by RH Lyon Corp.

☒ Attached to this power is a "STATEMENT UNDER 37 CFR 3.73(b)".

### **AMENDMENT**

*(complete as applicable)*

II. ☒ An amendment in accordance with 37 C.F.R. § 1.121 is attached.

☒ The attached amendment cancels 121 claims (1, 6-15, 21-42, 47-55, 61-77, 79-82, 85-86, 90-92, 96-137 and 139-149 inclusive).

### **TRANSMITTAL OF ENGLISH TRANSLATION OF NON-ENGLISH LANGUAGE PAPERS**

III. ☐ Submitted herewith is a verified English translation of the non-English language application papers as originally filed. It is requested that this translation be used as the copy for examination purposes in the PTO.

*NOTE: For fee processing a non-English application complete item IV(3) below.*

*NOTE: A non-English oath or declaration in the form provided or approved by the PTO need not be translated. 37 C.F.R. § 1.69(b).*

### **COMPLETION FEES**

IV.

**WARNING:** FAILURE TO SUBMIT THE SURCHARGE FEES WHERE REQUIRED WILL CAUSE THE APPLICATION TO BECOME ABANDONED. 37 C.F.R. § 1.53.

*NOTE: For effect on fees of failure to establish status, or change status, as a small entity, see 37 C.F.R. § 1.28(a). (Completion of Filing Requirements for International Application Entering U.S. Elected Office (EO/US)*

**[13-19]—page 3 of 7)**

1. Basic National Stage Fee

☐ original patent application  
(37 C.F.R. § 1.492(a)-\$300.00; Small entity-\$150.00) \$ \_\_\_\_\_

2. National Stage Search fee

☒ U.S. was ISA or IPEA and all claims satisfy PCT Article 33(1)-(4)  
(37 C.F.R. § 1.492(b)(1)-\$0.00; Small entity-\$0.00) \$ 0.00  
**IPRP ENCLOSED – See Supplemental Box, last page** \_\_\_\_\_

☐ U.S. was the ISA  
(37 C.F.R. § 1.492(b)(2)-\$100.00; Small entity-\$50.00) \$ \_\_\_\_\_

☐ Search report prepared and provided to USPTO  
(37 C.F.R. § 1.492(b)(3)-\$400.00; Small entity-\$200.00) \$ \_\_\_\_\_

☐ All Other Situations  
(37 C.F.R. § 1.492(b)(4)-\$500.00; Small entity-\$250.00) \$ \_\_\_\_\_

3. National Stage Examination fee

☒ U.S. was ISA or IPEA and, all claims satisfy PCT Article 33(1)-(4)  
(37 C.F.R. § 1.492(c)(1)-\$0.00; Small entity-\$0.00) \$ 0.00  
**IPRP ENCLOSED – See Supplemental Box, last page** \_\_\_\_\_

☐ All other situations  
(37 C.F.R. § 1.492(c)(2)-\$200.00; Small entity-\$100.00) \$ \_\_\_\_\_

4. Fees for claims

☒ each independent claim in excess of 3 (8-3=5)  
(37 C.F.R. § 1.492(d)-\$200.00; small entity-\$100.00) \$ 500.00

☒ each claim in excess of 20 (28-20=8)  
(37 C.F.R. § 1.492(e)-\$50.00; small entity-\$25.00) \$ 200.00

☐ multiple dependent claim(s)  
(37 C.F.R. § 1.492(f)-\$360.00; small entity-\$180.00) \$ \_\_\_\_\_

5. Surcharge fees

☒ National Stage application size fee – for each additional 50 sheets that exceeds 100 sheets  
(37 C.F.R. § 1.492(j)-\$250.00; small entity-\$125.00) \$ 125.00

☒ Search fee, examination fee or oath or declaration after thirty months from priority date  
(37 C.F.R. § 1.492(h)-\$130.00; small entity-\$65.00) \$ 65.00

**NOTE:** Even where a facsimile declaration or oath signed by the inventor(s) was part of the originally filed papers the surcharge fee is required.

**NOTE:** If both the filing fee and declaration or oath were missing from the original papers, the Office practice under § 37 CFR 1.16(e) is that only one surcharge Fee need be paid whether the later filed oath or declaration and/or the filing fee are submitted afterwards at the same time or different times.

8. ☐ Assignment (Assignment is being submitted with fee separately to Box assignments. See copy of "ASSIGNMENT COVER SHEET".)

Total completion fees \$ 1040.00

### EXTENSION OF TIME

(Complete (a) or (b) , as applicable)

#### V.

The proceedings herein are for a patent application. Accordingly, the provisions of 37 C.F.R. § 1.136(a) apply.

- (a) ☐ Applicant petitions for an extension of time, the fees for which are set out in 37 C.F.R. § 1.17a(1)-(4), for the total number of months checked below:

Extension (months)	Fee for other than small entity	Fee for small entity
<input type="checkbox"/> one months	\$ 120.00	\$ 60.00
<input type="checkbox"/> two months	\$ 450.00	\$225.00
<input type="checkbox"/> three months	\$ 1,020.00	\$510.00
<input type="checkbox"/> four months	\$ 1,590.00	\$795.00
	Fee \$	<u>                    </u>

If an additional extension of time is required please consider this a petition therefor.

(check and complete the next item, if applicable)

- ☐ An extension for                  months has already been secured and the fee paid therefor of \$                      is deducted from the total fee due for the total months of extension now requested.  
Extension fee due with this request \$

or

- (b) ☐ Applicant believes that no extension of term is required. However, this conditional petition is being made to provide for the possibility that applicant has inadvertently overlooked the need for a petition and fee for extension of time.

### TOTAL FEE DUE

#### VI.

The total fee due is:

Completion fee(s) \$ 1040.00  
Extension Fee (if any) \$                     

Total Fee Due \$ 1040.00

## PAYMENT OF FEES

### VII.

- ☒ Enclosed is a check in the amount of \$ 1040.00
- ☐ Charge Account No. \_\_\_\_\_ in the amount of \$ \_\_\_\_\_
- ☐ A duplicate of this request is attached.

**NOTE:** *Fees should be itemized in such a manner that it is clear for which purpose the fees are paid. 37 C.F.R. § 1.22(b).*

## AUTHORIZATION TO CHARGE ADDITIONAL FEES

### VIII.

**WARNING:** *ACCURATELY COUNT CLAIMS, ESPECIALLY MULTIPLE DEPENDANT CLAIMS, TO AVOID UNEXPECTED HIGH CHARGES IF EXTRA CLAIMS ARE AUTHORIZED.*

**NOTE:** *"A written request may be submitted in an application that is an authorization to treat any concurrent or future reply, requiring a petition for an extension of time under this paragraph for its timely submission, as incorporating a petition for extension of time for the appropriate length of time. An authorization to charge all required fees, fees under §1.17, or all required extension of time fees will be treated as a constructive petition for an extension of time in any concurrent or future reply requiring a petition for an extension of time under this paragraph for its timely submission. Submission of the fee set forth in §1.17 (a) will also be treated as a constructive petition for an extension of time in any concurrent reply requiring a petition for an extension of time under this paragraph for its timely submission." 37 C.F.R. § 1.136(a)(3).*

**NOTE:** *"Amounts of twenty-five dollars or less will not be returned unless specifically requested within a reasonable time, nor will the payer be notified of such amounts; amounts over twenty-five dollars may be returned by check, or if requested, by credit to a deposit account." 37 C.F.R. § 1.26(a).*

- ☒ The Commissioner is hereby authorized to charge any deficiencies and credit any overpayment for the following additional fees which may be required by this paper and during the pendency of this application to Account

No. 23-0833

- ☒ 37 CFR 1.492 (a), b(1)-b(4), c(1)-c(2) (National Stage Basic, Search and Examination fees)

☐ 37 CFR 1.492(d) and (e) (presentation of extra claims)

**NOTE:** *Because additional fees for excess or multiple dependent claims not paid on filing or on later presentation must only be paid or these claims cancelled by amendment prior to the expiration of the time period set for response by the PTO in any notice of fee deficiency (37 C.F.R. § 1.16(d)), it might be best not to authorize the PTO to charge additional claim fees, except possibly when dealing with amendments after final action.*

- ☒ 37 C.F.R. § 1.492(h) and (j) (Search fee, examination fee, or oath or declaration after thirty months from priority date and Surcharge for National Stage Application Size Fee)

**Warning:** *It would be wise to always check this previous authorization.*

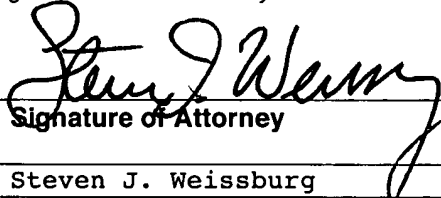
☐ 37 C.F.R. § 1.17 (application processing fees)

- ☒ 37 C.F.R. § 1.17(a)(1)-(5) (extension fees pursuant to § 1.136(a))

☐ 37 C.F.R. § 1.18 (issue fee at or before mailing of Notice of Allowance, pursuant to 37 C.F.R. § 1.311(b)).

*NOTE: Where an authorization to charge the issue fee to a deposit account has been filed before the mailing of a Notice of Allowance, the issue fee will be automatically charged to the deposit account at the time of mailing the notice of allowance. 37 C.F.R. § 1.311(b).*

*NOTE: 37 C.F.R. § 1.28(b) requires "Notification of any change in loss of entitlement to small entity status must be filed in the application ... prior to paying, or at the time of paying ... issue fee". From the wording of 37 C.F.R. § 1.28(b): (a) notification of change of status must be made even if the fee is paid as "other than a small entity" and (b) no notification is required if the change is to another small entity.*

  
\_\_\_\_\_  
Signature of Attorney

Reg. No. 31-581

\_\_\_\_\_  
Steven J. Weissburg  
(type or print name of Attorney)

Cust No. 021403

\_\_\_\_\_  
238 Main Street, Suite 303  
Cambridge, MA 02142  
(P. O. Address)

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Imac20SJW:Gibraltar clients:Clients:Lyon, R. H. :LYON 1001 US:Missing Parts  
from PCT 8-06

08/15/2006 MKAYPAGH 00000124 10553774

01 FC:2632	250.00 OP
02 FC:2633	100.00 OP
03 FC:2615	125.00 OP
04 FC:2617	65.00 OP
05 FC:2614	500.00 OP



## UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
 United States Patent and Trademark Office  
 Address: COMMISSIONER FOR PATENTS  
 P.O. Box 1450  
 Alexandria, Virginia 22313-1450  
 www.uspto.gov

U.S. APPLICATION NUMBER NO.	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/553,774	Richard H Lyon	LYON 1001 US

INTERNATIONAL APPLICATION NO.
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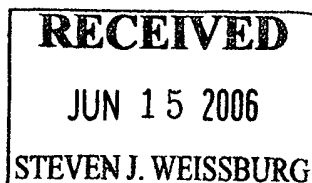
PCT/US04/12363

I.A. FILING DATE	PRIORITY DATE
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04/22/2004

04/23/2003

21403  
 STEVEN J WEISSBURG  
 238 MAIN STREET  
 SUITE 303  
 CAMBRIDGE, MA 02142



CONFIRMATION NO. 3836

371 FORMALITIES LETTER



\*OC000000019221561\*

Date Mailed: 06/12/2006

### NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)

The following items have been submitted by the applicant or the IB to the United States Patent and Trademark Office as a Designated / Elected Office (37 CFR 1.495).

- Indication of Small Entity Status
- Copy of the International Application filed on 10/19/2005
- Copy of the International Search Report filed on 10/19/2005
- Copy of IPE Report filed on 10/19/2005
- Oath or Declaration filed on 10/19/2005
- Request for Immediate Examination filed on 10/19/2005
- U.S. Basic National Fees filed on 10/19/2005
- Priority Documents filed on 10/19/2005
- Specification filed on 10/19/2005
- Claims filed on 10/19/2005
- Abstracts filed on 10/19/2005
- Drawings filed on 10/19/2005

The applicant needs to satisfy supplemental fees problems indicated below.

The following items **MUST** be furnished within the period set forth below in order to complete the requirements for acceptance under 35 U.S.C. 371:

- Additional claim fees of \$4325 as a small entity, including any required multiple dependent claim fee, are required. Applicant must submit the additional claim fees or cancel the additional claims for which fees are due.
- Oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date. The current oath or declaration does not comply with 37 CFR 1.497(a) and (b) in that it:



- is not executed in accordance with either 37 CFR 1.66 or 37 CFR 1.68.
- To avoid abandonment, a surcharge (for late submission of filing fee, search fee, examination fee or oath or declaration) as set forth in 37 CFR 1.492(h) of \$65 for a small entity in compliance with 37 CFR 1.27, must be submitted with the missing items identified in this letter.

#### SUMMARY OF FEES DUE:

Total additional fees required for this application is **\$4665** for a Small Entity:

- **\$65 Surcharge.**
  - The specification and drawings contain more than 100 pages. Applicant owes **\$125** for **8** pages in excess of **100** pages for a small entity in compliance with 37 CFR 1.27.
  - The application search fee has not been paid. Applicant must submit **\$50** to complete the search fee. Note a surcharge will be required if submitted later than commencement of the national stage (37 CFR 1.492(h)) and the basic national fee was not paid before July 1, 2005.
  - The application examination fee has not been paid. Applicant must submit **\$100** to complete the examination fee for a small entity in compliance with 37 CFR 1.27. Note a surcharge will be required if submitted later than commencement of the national stage (37 CFR 1.492(h)) and the basic national fee was not paid before July 1, 2005.
- Total additional claim fee(s) for this application is **\$ 4325**
  - **\$1100** for **11** independent claims over 3.
  - **\$3225** for **129** total claims over 20.

**ALL OF THE ITEMS SET FORTH ABOVE MUST BE SUBMITTED WITHIN TWO (2) MONTHS FROM THE DATE OF THIS NOTICE OR BY 32 MONTHS FROM THE PRIORITY DATE FOR THE APPLICATION, WHICHEVER IS LATER. FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT.**

The time period set above may be extended by filing a petition and fee for extension of time under the provisions of 37 CFR 1.136(a).

Applicant is reminded that any communications to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above (37 CFR 1.5)

*A copy of this notice **MUST** be returned with the response.*

KAREN M WILLIAMS

Telephone: (703) 308-9140 EXT 213

#### PART 1 - ATTORNEY/APPLICANT COPY

U.S. APPLICATION NUMBER NO.	INTERNATIONAL APPLICATION NO.	ATTY. DOCKET NO.
10/553,774	PCT/US04/12363	LYON 1001 US